



Signed and Filed: April 22, 2013

A handwritten signature in dark ink, appearing to read "T E Carlson".

THOMAS E. CARLSON U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re	)	Case No. 09-31378 TEC
	)	
LUISA HANSEN,	)	Chapter 11
dba TOREE DEL GRECO, INC.,	)	
	)	
	)	
Debtor.	)	
	)	
	)	
	)	

MEMORANDUM RE COMPENSATION OF CHAPTER 11 TRUSTEE

Chapter 11 trustee Jeffrey Hutchinson (Trustee) filed his second interim application. Debtor objected to that application, contending that the fees sought exceed the cap imposed under section 326(a), because Trustee improperly claimed the amount credit bid by secured lender as money disbursed to creditors. U.S. Trustee v. Tamm (In re Hokulani Square, Inc.), 460 B.R. 763 (B.A.P. 9th Cir. 2011).

The court agrees with Trustee that the purchase of the secured note by Dr. Pappas should be considered part of the purchase of the Union Street Property, and that the amount Dr. Pappas paid to Chase to purchase that note should be considered to be money disbursed by Trustee to a creditor of the estate. The court agrees with Debtor

1 that the cap on Trustee's compensation must be calculated from  
2 "money" disbursed to creditors, and therefore the cap on Trustee's  
3 compensation must be calculated from the amount that Dr. Pappas  
4 paid to Chase, not the balance due on the note at the time of the  
5 purchase of the note. Any forgiveness of debt embodied in the sale  
6 of the note at a discount does not represent money paid to the  
7 creditor.

8 Trustee's second interim application is allowed at this time  
9 in the amount of \$41,382.81 (the amount of the cap, excluding the  
10 \$1.8 million note credit bid at the sale). Trustee may supplement  
11 his application with evidence showing the amount Dr. Pappas paid to  
12 Chase to purchase the note. The court will allow Trustee fees  
13 calculated from the amount paid to Chase. Debtor shall file any  
14 objection to such supplement within 14 days after Trustee files and  
15 serves the supplement upon Debtor's counsel. The court will  
16 schedule an additional hearing if appropriate.

17 **\*\*END OF MEMORANDUM\*\***  
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Court Service List

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